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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/747,948	12/31/2003	Keiko Hasebe	0425-1107P	6955
2292	7590	11/16/2005	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH			PAK, JOHN D	
PO BOX 747			ART UNIT	PAPER NUMBER
FALLS CHURCH, VA 22040-0747			1616	

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/747,948	HASEBE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	JOHN PAK	1616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on \_\_\_\_.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-14 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) \_\_\_\_\_ is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) 1-14 are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
    Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
    Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.  
\_\_\_\_\_

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Claims 1-14 are pending in this application.

Restriction to one of the following inventions is required under 35 USC

121:

- I.     Claims 1-6, 9-14, drawn to methods for controlling various microbial organisms, insects, pests, method for regulating plant growth, method for enhancing the effectiveness of agricultural chemicals, method for enhancing the penetration of agricultural chemicals, and method for enhancing the effectiveness of agricultural chemicals, wherein at least one nitrogen-containing compound of formula (1) is utilized, classified in countless subclasses in classes 504, 424 and 514, depending on the structure of the agricultural chemicals.
- II.    Claims 1-5, 7-14, drawn to methods for controlling various microbial organisms, insects, pests, method for regulating plant growth, method for enhancing the effectiveness of agricultural chemicals, method for enhancing the penetration of agricultural chemicals, and method for enhancing the effectiveness of agricultural chemicals, wherein at least one nitrogen-containing compound of formula (13) is utilized, classified in countless subclasses in classes 504, 424 and 514, depending on the structure of the agricultural chemicals.

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- III. Claims 1-5, 9-14, drawn to methods for controlling various microbial organisms, insects, pests, method for regulating plant growth, method for enhancing the effectiveness of agricultural chemicals, method for enhancing the penetration of agricultural chemicals, and method for enhancing the effectiveness of agricultural chemicals, wherein at least one nitrogen-containing compound of formula (8) is utilized, classified in countless subclasses in classes 504, 424 and 514, depending on the structure of the agricultural chemicals.
- IV. Claims 1-5, 9-14, drawn to methods for controlling various microbial organisms, insects, pests, method for regulating plant growth, method for enhancing the effectiveness of agricultural chemicals, method for enhancing the penetration of agricultural chemicals, and method for enhancing the effectiveness of agricultural chemicals, wherein at least one nitrogen-containing compound of formula (3) is utilized, classified in countless subclasses in classes 504, 424 and 514, depending on the structure of the agricultural chemicals.
- V. Claims 1-5, 9-14, drawn to methods for controlling various microbial organisms, insects, pests, method for regulating plant growth, method for enhancing the effectiveness of agricultural chemicals,

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method for enhancing the penetration of agricultural chemicals, and method for enhancing the effectiveness of agricultural chemicals, wherein at least one nitrogen-containing compound of formula (9) is utilized, classified in countless subclasses in classes 504, 424 and 514, depending on the structure of the agricultural chemicals.

The inventions as set forth above are each distinct from the other inventions. Each invention utilizes structurally divergent nitrogen containing compounds, which must be separately searched, reviewed and examined. The five inventions are distinct by virtue of their use of structurally divergent and distinct nitrogen containing compounds.

Further, the search and examination of more than one invention group would place an undue burden on the Examiner. The 14 claims in this application take up 57 pages to fully recite. There is a lot of subject matter to search, review and examine. Each invention group itself places serious burden on the Examiner due to the breadth of the claims for each invention: any and all agricultural chemical in combination with extremely broad and structurally divergent category of nitrogen containing compounds. None of the searching can be done together, and a reference for one invention would likely be not relevant to the other inventions in the absence of a nexus type teaching. In view of the serious search

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and examination burden already placed on the Examiner for just one of the invention groups, the additional burden represented by the additional distinct invention group(s) amounts to undue burden.

Therefore, for the reasons of distinctness and undue burden, the restriction requirement as set forth above is deemed to be proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed. 37 CFR 1.143.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

A facsimile center has been established in Technology Center 1600. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM. The telecopier number for accessing the facsimile machines is (703) 273-8300.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Examiner John Pak whose telephone number

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is **(571)272-0620**. The Examiner can normally be reached on Monday through Friday from 8:00 AM to 4:30 PM. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's SPE, Gary Kunz, can be reached on **(571)272-0887**.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is **(571) 272-1600**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have a question on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JOHN PAK  
PRIMARY EXAMINER  
GROUP 1600